

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Acupuncturists — Code of ethics

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Code of ethics of acupuncturists, adopted by the Bureau of the Ordre des acupuncteurs du Québec, the text of which appears below, may be submitted to the Government, which may approve it, with or without amendment, upon the expiry of 45 days following this publication.

According to the Ordre des acupuncteurs du Québec, the primary purpose of the regulation is to govern the general and special duties of professionals towards the public, clients and the profession, particularly the duty to discharge their professional obligations with integrity.

It is also intended to set out the terms and conditions according to which a professional may communicate information that is protected by professional secrecy so as to prevent an act of violence, in accordance with the provisions of the Act to amend various legislative provisions as regards the disclosure of confidential information to protect individuals (2001, c. 78).

The Code of ethics is necessary to guarantee better protection of the public and increased supervision of the professional practice. The Code will have no impact on businesses, including small and medium-sized businesses.

Further information may be obtained by contacting François Houle, Secretary General, Ordre des acupuncteurs du Québec, 1001, boulevard de Maisonnette Est, bureau 585, Montréal (Québec) H2L 4P9; telephone: (514) 523-2882 or 1 800 474-5914; fax: (514) 523-9669.

Any person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and they may also be sent to the professional order that adopted the regulation and to interested persons, departments and bodies.

JEAN-K. SAMSON,
*Chair of the Office
des professions du Québec*

Code of ethics of acupuncturists

Professional Code
(R.S.Q., c. C-26, s. 87)

CHAPTER I GENERAL

1. This Code, pursuant to section 87 of the Professional Code (R.S.Q., c. C-26), governs the general and special duties that acupuncturists must discharge, particularly in carrying out a mandate entrusted to their care by patients.

CHAPTER II DUTIES TOWARDS PATIENTS, THE PROFESSION AND THE PUBLIC

DIVISION I COMPETENCE AND INTEGRITY

2. Acupuncturists shall discharge their professional duties with competence and integrity.

3. The primary duty of acupuncturists is to protect the health and well-being of the persons to whom care is given, both individually and collectively.

4. Acupuncturists shall practise their profession in accordance with the general standards of practice recognized by traditional oriental energetic medicine and the profession. To that end, they shall, in particular, keep up-to-date and improve their knowledge as well as develop their proficiency, skills and attitudes.

5. Before accepting a mandate, acupuncturists shall bear in mind the extent of their competence and the means at their disposal. They shall refrain from guaranteeing the healing of any health condition.

6. In addition to the provisions of section 54 of the Professional Code, acupuncturists shall refrain from practising their profession or from performing certain professional acts in a condition or in a state liable to compromise the quality of their services.

7. Where they forward information that they know to be incomplete or preliminary or where they doubt the reliability thereof, acupuncturists shall so notify the recipients.

8. Acupuncturists shall, in the practice of their profession, show respect for the life, dignity and freedom of human beings. Acupuncturists shall not refuse to provide their professional services where a patient's life is in danger.

9. Acupuncturists shall bear in mind all the foreseeable consequences that their research and work may have on society.

10. The conduct of acupuncturists must be irreproachable.

They shall, in particular, act with courtesy, dignity, moderation and objectivity.

DIVISION II IMPARTIALITY AND INDEPENDENCE

11. Acupuncturists shall subordinate their personal interests to those of their patients.

12. Acupuncturists shall safeguard their professional independence at all times. They shall, in particular, ignore any intervention by a third party which could affect the carrying out of their professional obligations to the detriment of their patients.

13. Except for the remuneration to which they are entitled, acupuncturists shall refrain from receiving any benefit, commission or discount relating to the practice of their profession. Nor shall they pay, offer to pay or agree to pay such benefit, commission or discount.

DIVISION III DILIGENCE AND AVAILABILITY

14. Acupuncturists shall demonstrate reasonable diligence and availability.

15. Unless they have sound and reasonable grounds therefor, acupuncturists may not terminate the professional services they provide to a patient.

The following shall, in particular, constitute sound and reasonable grounds :

- (1) loss of the patient's confidence ;
- (2) lack of cooperation on the part of the patient to participate in his or her treatment ;
- (3) personality conflict between the acupuncturist and the patient ;
- (4) conflict of interest or any situation in which their professional independence might be called into question ; and
- (5) incitement by the patient to perform acts that he or she knows to be illegal, improper or fraudulent.

16. Before ceasing to provide professional services to a patient, an acupuncturist shall so inform the patient and make sure that the withdrawal will not be prejudicial to the patient.

The acupuncturist shall ensure that the patient can continue to receive the care needed and shall contribute to such care to the extent necessary.

DIVISION IV FEES

17. Acupuncturists shall charge fair and reasonable fees.

Fees are considered fair and reasonable if they are warranted by the circumstances and proportionate to the professional services provided.

18. To determine the amount of their fees, acupuncturists shall, in particular, bear in mind the following factors :

- (1) their experience ;
- (2) the time required to carry out the professional services ;
- (3) the complexity and extent of the professional services ; and
- (4) the need to perform unusual professional services or services requiring exceptional celerity or competence.

19. Acupuncturists shall, as soon as possible, inform their patients of the approximate cost, nature and method of providing the professional services required and obtain their agreement in that respect.

20. Acupuncturists shall refrain from demanding advance payment of their fees for professional services.

21. Acupuncturists may not claim payment from their patients for professional services paid for by a third party under a law unless under such law they may conclude and have concluded an explicit agreement with their patients.

22. Acupuncturists may share fees with another member of the Ordre des acupuncteurs du Québec only to the extent that such sharing reflects a division of responsibilities and services.

23. Acupuncturists who entrust their fee collection to another person shall ensure that the latter will act with tact and moderation.

DIVISION V LIABILITY

24. Acupuncturists shall assume full personal civil liability.

It is prohibited for acupuncturists to insert in a contract of professional services any clause excluding, directly or indirectly, in whole or in part, that liability. They may not sign a contract containing such a clause.

DIVISION VI ADDITIONAL DUTIES WHILE CARRYING OUT A MANDATE

25. If the good of the patient so requires, acupuncturists shall consult another member of the Order, a member of another professional order or any other qualified person, or refer the patient to one of those persons.

26. Acupuncturists shall, at all times, recognize a patient's right to consult with another member of the Order, a member of another professional order or any other qualified person.

27. Acupuncturists shall provide patients with, in addition to opinions and advice, the explanations necessary to evaluate and understand the professional services they are providing.

DIVISION VII PRECAUTIONS RELATED TO RESEARCH

28. Before undertaking a research project, acupuncturists shall evaluate its possible repercussions on the participants. In particular they shall

(1) consult any person likely to help them in deciding whether to undertake the research or in taking measures to eliminate any risk to participants;

(2) ensure that all those working with them on the project share their concern for the full respect of the participants; and

(3) obtain the written consent of all participants or the persons legally responsible for them, after informing them of all the foreseeable, major, special or unusual risks inherent in the research, and of any other aspects likely to help them in their decision regarding their participation.

29. Acupuncturists shall be honest and frank in their dealings with participants. If the methodology followed makes it imperative that certain aspects of the project not be disclosed immediately, acupuncturists shall give the participants the reasons for this measure as soon as possible after the experiment.

30. Acupuncturists shall not force a person to take part in research or to maintain that participation.

DIVISION VIII ACTS DEROGATORY TO THE DIGNITY OF THE PROFESSION

31. In addition to the acts to which section 59 of the Professional Code applies, the act referred to in section 59.1 of the Code and what may be determined pursuant to subparagraph 1 of the second paragraph of section 152 of the Code, the following acts are derogatory to the dignity of the profession:

(1) practising the profession of acupuncturist while under the influence of alcoholic beverages, hallucinogens, anaesthetics, narcotics, drugs or any other substance causing reduced or disturbed faculties, unconsciousness or intoxication;

(2) submitting a report or any other document that the acupuncturist knows to be false;

(3) failing to report to the Order, without delay, any person appropriating the title of acupuncturist;

(4) failing to report to the Order, without delay, any person practising acupuncture illegally;

(5) communicating with or attempting to intimidate the person who requested the holding of an inquiry without prior written permission of the syndic or an assistant syndic, where the acupuncturist has been informed that he or she is the object of an inquiry or has been served with a complaint against him or her;

(6) marketing, selling, distributing or participating, for profit, in the distribution of material, substances or equipment related to an acupuncturist's professional activity, except

(a) in respect of a sale that addresses the immediate needs of a patient and is required for the acupuncture treatment but that is not included in the regular price for the treatment. The patient must in that event be notified of any profit realized by the acupuncturist in the sale; and

(b) where the acupuncturist's commercial activities are clearly separate from the acupuncture practice and the acupuncturist's professional title is not associated with the commercial activities;

(7) using his or her name or allowing it to be used for commercial purposes; and

(8) performing acts that are not required or that are disproportionate to the patient's needs or performing any unnecessary or superfluous professional acts.

DIVISION IX

PRESERVATION OF THE SECRECY OF CONFIDENTIAL INFORMATION

32. For the purposes of preserving the secrecy of confidential information brought to their knowledge in the practice of their profession, acupuncturists shall

(1) refrain from disclosing that a person has requested their professional services;

(2) avoid holding or participating in indiscreet conversations concerning patients and the services provided to them;

(3) refrain from making use of confidential information to the detriment of a patient or with a view to obtaining, directly or indirectly, a benefit for themselves or another person;

(4) take reasonable means with respect to their associates, employees and the personnel about them to preserve the secrecy of confidential information; and

(5) be released from professional secrecy only upon the written authorization of their patients or when so ordered by law.

33. In addition to the cases provided for in paragraph 5 of section 32, acupuncturists may disclose information that is protected by professional secrecy to prevent an act of violence, including a suicide, where they have reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

However, acupuncturists may only communicate the information to a person exposed to the danger or that person's representative, or to the persons who can come to that person's aid.

They may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

34. An acupuncturist who, pursuant to section 33, communicates information protected by professional secrecy to prevent an act of violence shall

(1) communicate the information without delay; and

(2) enter the following particulars in the client's record as soon as possible:

(a) the date and time of the communication;

(b) the reasons supporting the decision to communicate the information; and

(c) the content of the communication, the mode of communication and the name of the person to whom the information was given.

DIVISION X

TERMS AND CONDITIONS OF THE EXERCISE OF THE RIGHTS OF ACCESS AND CORRECTION PROVIDED FOR IN SECTIONS 60.5 AND 60.6 OF THE PROFESSIONAL CODE AND THE ACUPUNCTURIST'S OBLIGATION TO RELEASE DOCUMENTS TO THE PATIENT

§1. General

35. Acupuncturists may require that a request referred to in section 37, 40 or 43 be made and the right be exercised at their place of business during their regular working hours.

36. If they fail to reply within 20 days of receiving a request to which section 37 or 40 applies, acupuncturists are deemed to have refused to grant it.

§2. Terms and conditions of the exercise of the right of access provided for in section 60.5 of the Professional Code

37. Acupuncturists shall respond promptly, at the latest within 20 days of its receipt, to any request made by patients whose purpose is

(1) to consult documents that concern them in any record made in their regard; or

(2) to obtain a copy of the documents that concern them in any record made in their regard.

38. Acupuncturists may charge only reasonable fees in respect of a request to which paragraph 2 of section 37 refers and the fees may not exceed the cost of reproducing or transcribing documents or the cost of forwarding a copy.

Acupuncturists charging such fees shall, before proceeding with the copying, transcribing or sending of the information, inform the patient of the approximate amount to be paid.

39. Acupuncturists who, pursuant to the second paragraph of section 60.5 of the Professional Code, deny a patient access to the information contained in a record made in his or her regard shall inform the patient in writing that the disclosure would be likely to cause serious harm to the patient or to a third party.

§3. Terms and conditions of the exercise of the right of correction provided for in section 60.6 of the Professional Code

40. Acupuncturists shall respond promptly, at the latest within 20 days of its receipt, to any request made by a patient to

(1) cause to be corrected any information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected, contained in a document concerning them in any record established in the patient's respect;

(2) cause to be deleted any information that is outdated or not justified by the object of the record that concerns the patient; or

(3) file in the record that concerns the patient the written comments prepared by the patient.

41. An acupuncturist who grants a request referred to in section 40 shall issue to the patient, free of charge, a copy of the document or part of the document allowing the patient to determine that the information has been corrected or deleted or, as the case may be, an attestation that the written comments prepared by the patient have been filed in the record.

42. Upon written request from the patient, the acupuncturist shall forward a copy, free of charge, of corrected information or an attestation that the information was deleted or, as the case may be, that written comments were filed in the record to any person from whom the acupuncturist received the information that was subject to the correction, deletion or comments and to any person to whom the information was provided.

§4. Acupuncturists' obligation to release documents to patients

43. Acupuncturists shall respond promptly to any written request made by a patient, for the purpose of taking back a document entrusted to them by a patient.

Acupuncturists shall indicate in the patient's record, where applicable, the reasons for the patient's request.

44. Acupuncturists shall, within a reasonable time, supply a patient or anyone designated by the patient, on demand, all information, attestations or receipts which would allow them to obtain a benefit to which they might be entitled.

DIVISION XI CONDITIONS, OBLIGATIONS AND PROHIBITIONS RESPECTING ADVERTISING

45. Acupuncturists shall have their name and professional title appear in their advertising.

46. Acupuncturists shall not engage in, or allow the use of, by any means whatsoever, advertising that is unsuitable, false, incomplete, misleading or liable to mislead.

47. Acupuncturists who, in their advertising, claim to possess skills or specific qualities, particularly in respect of the effectiveness or scope of their services and of those generally offered by other members of their profession in respect of the exactness and accuracy of the results they provide or of their level of competence, must be able to substantiate such claims.

Acupuncturists who, in their advertising, ascribe particular advantages to a service or certain performance characteristics, claim that a pecuniary benefit will result from the acquisition or use of a service or claim that a service complies with determined standards must be able to substantiate such claims.

48. In the practice of their profession, acupuncturists may not use advertising practices liable to denigrate or discredit any person they have dealings with, in particular another member of the Order or a member of another professional order.

49. Acupuncturists shall avoid any advertising likely to tarnish the image of the profession or to impart to it a profit-seeking or commercial character.

50. No acupuncturist shall advertise or allow to be advertised on his or her behalf or in his or her respect, by any means whatsoever, a product or equipment related directly or indirectly to the health sector.

51. No acupuncturist shall engage in advertising or allow advertising on his or her behalf or in his or her respect, by any means whatsoever, that is likely to influence persons who may be physically or emotionally vulnerable because of their age, their state of health, or the occurrence of a specific event.

52. Acupuncturists who express their opinion on acupuncture through any public information media shall inform the public of the generally accepted opinions on acupuncture on the issue dealt with and convey factual, exact and verifiable information.

53. Acupuncturists who advertise fees or prices shall

- (1) set fixed fees or prices;
- (2) indicate the period during which those fees or prices are in effect;
- (3) specify the nature and scope of the professional services included in the fees or prices;
- (4) indicate, as the case may be, whether additional professional services may be required that are not included in the fees or prices; and
- (5) indicate whether expenses or other disbursements are included in the fees or prices.

Those indications and explanations must be given in such manner as to reasonably inform persons who have no particular knowledge of acupuncture or the professional services covered by the advertisement.

Acupuncturists and patients may however agree upon fees or prices lower than those broadcast or published.

Acupuncturists shall keep those fees or prices in effect for a minimum period of 90 days following the date on which they were last broadcast or published.

54. Acupuncturists shall keep a complete copy of their advertisement or that of their associates in its original form for at least five years following the date it was last broadcast or published. The copy shall be given to the syndic of the Order upon request.

DIVISION XII

RELATIONS WITH THE ORDER AND THE OTHER PERSONS ACUPUNCTURISTS HAVE DEALINGS WITH IN THE PRACTICE OF THEIR PROFESSION

55. An acupuncturist who is consulted by another member of the Order by reason of a particular competence on a given matter shall provide the latter with an opinion and recommendations as promptly as possible.

56. An acupuncturist whom the Bureau or the administrative committee of the Order calls upon to be a member of the professional inspection committee, the committee on discipline, the review committee made under section 123.3

of the Professional Code or the council for the arbitration of accounts made pursuant to the provisions of the Regulation made under section 88 of the Code, shall accept that duty unless there are exceptional reasons for refusing it.

57. Acupuncturists shall cooperate with any person they have dealings with in the practice of their profession, in particular with the other members of the Order and the members of other professional orders and shall endeavour to establish and maintain harmonious relations.

58. Acupuncturists shall not, with respect to any person they have dealings with in the practice of their profession, in particular another member of the Order or a member of another professional order, breach their trust, voluntarily mislead them, betray their good faith or use unfair practices.

An acupuncturist shall not take credit for work performed by another person, particularly by another member of the Order.

An acupuncturist shall refrain from soliciting the clientele of another acupuncturist with whom he or she was called upon to collaborate.

59. Any acupuncturist who has reason to believe that an acupuncturist practises his or her profession incompetently or dishonestly, or is contravening the provisions of the Professional Code, the Act respecting acupuncture (R.S.Q., c. A-5.1) or the regulation thereunder, in particular this Code, shall so inform the Bureau, the general management, the syndic or the professional inspection committee, as the case may be.

60. An acupuncturist who holds a position in the Order or who is called upon to collaborate with the Order shall avoid any situation of conflict of interest.

61. Acupuncturists shall promptly reply to all correspondence from the secretary of the Order, the syndic of the Order, or from the assistant syndic or an equivalent syndic, as well as a member of the professional inspection committee, an investigator or an inspector of the committee.

DIVISION XIII

CONTRIBUTION TO THE PROFESSION

62. Acupuncturists shall, insofar as possible, contribute to the development of the profession by sharing their knowledge and experience with the other members of the Order and students.

63. Acupuncturists shall promote education and information measures in the field in which they practise. Unless they have good reasons for not doing so, they shall also perform the necessary acts to ensure that such education and information duties relating to the field are carried out.

64. Acupuncturists shall support every measure likely to improve the quality and availability of professional services in the field in which they practise.

DIVISION XIV REPRODUCTION OF THE GRAPHIC SYMBOL OF THE ORDER

65. Acupuncturists who reproduce the graphic symbol of the Order in their advertising shall ensure that it is identical to the original held by the secretary of the Order.

66. Acupuncturists who use the graphic symbol of the Order in their advertising, except on business cards, must include the following notice in the advertising :

“This is not an advertisement of the Ordre professionnel des acupuncteurs du Québec, and is binding only on its author.”.

CHAPTER III FINAL

67. Acupuncturists who, at the time of the coming into force of this Code, use a form of advertising that does not comply with the Code must comply therewith within six months.

Acupuncturists who are bound by a contract may continue to use the advertisement until the contract expires or until the next renewal.

68. Sections 30 to 32, 35, 38 to 40, 42 to 45, 47 to 51 and 52.1 of the Regulation respecting the practice of acupuncture by persons other than physicians, approved by Order in Council 299-85 dated 26 June 1985 and maintained in force by section 41 of the Act respecting acupuncture, cease to have effect on the day of the coming into force of this Code.

69. This Code comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

Draft Regulation

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1)

Plans exempted from the application of certain provisions of the Act

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act, the text of which appears below, may be made by the government upon the expiry of 45 days following this publication.

The purpose of the proposed regulatory provisions is to amend the rules concerning the simplified pension plan so as to simplify the administration of plans in this category and to allow a portion of the sums accumulated under the name of a member of such a plan to be exempted from locking-in. They are also intended to establish specific rules for the payment of the benefits of certain members where the conversion of a defined contribution pension plan into a simplified pension plan occurs.

Further information may be obtained from Mr. Pierre Bégin, Régie des rentes du Québec, place de la Cité, 2600, boulevard Laurier, Sainte-Foy (Québec) G1V 4T3, tel. : (418) 657-8732, fax : 659-8995, e-mail : pierre.begin@rrq.gouv.qc.ca

Any person having comments to make on this matter is asked to send them in writing, before the expiry of the 45-day period, to Mr. Guy Morneau, President and General Manager of the Régie des rentes du Québec, place de la Cité, 2600, boulevard Laurier, 5^e étage, Sainte-Foy (Québec) G1V 4T3. Comments will be forwarded by the Régie to the Minister of Employment, Social Solidarity and Family Welfare, who is responsible for the application of the Supplemental Pension Plans Act.

CLAUDE BÉCHARD,
*Minister of Employment, Social Solidarity
and Family Welfare*